

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

November 13, 2002

IN RE:

**PETITION FOR APPROVAL OF
AMENDMENT TO INTERCONNECTION
AGREEMENT BETWEEN BELL SOUTH
TELECOMMUNICATIONS, INC. AND
BIRCH TELECOM OF THE SOUTH, INC.**

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DOCKET NO. 02-01013

**ORDER APPROVING
AMENDMENT TO THE INTERCONNECTION AGREEMENT**

This matter came before Director Deborah Taylor Tate, Director Pat Miller, and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on October 21, 2002 to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of an amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and Birch Telecom of the South, Inc.

The original interconnection agreement between these parties was filed on October 12, 2000 and was assigned Docket No. 00-00904. The agreement was approved at a regularly scheduled Authority Conference on December 5, 2000. The first amendment was filed on January 19, 2001 under Docket No. 01-00074. The Authority approved the first amendment at the March 20, 2001 Authority Conference. The second amendment was filed on May 10, 2001 under Docket No. 01-00421. The Authority approved the second amendment at the

July 10, 2001 Authority Conference. The third amendment, which is the subject of this docket, was filed on September 16, 2002.

Based upon a review of the amendment, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the Petition and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.
- 2) The amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within the BellSouth Telecommunications, Inc. service area.
- 3) The amendment is not discriminatory to telecommunications service providers that are not parties thereto.
- 4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).¹ Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.

¹ See 47 U.S.C. § 252(e)(2)(B)(Supp. 2001).


- 5) No person or entity has sought to intervene in this docket.
- 6) The amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

IT IS THEREFORE ORDERED THAT:

The Petition is granted, and the third amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and Birch Telecom of the South, Inc. is approved and is subject to the review of the Authority as provided herein.


Deborah Taylor Tate, Director


Pat Miller, Director


Ron Jones, Director